

REMARKS

This application has been reviewed in light of the Office Action mailed on October 6, 2004. Claims 24-38 are pending in the application with Claims 24, 31 and 36 being in independent form. By the present amendment, Claims 31, 32 and 36 have been amended.

In the Office Action, Claims 31 and 35-38 were rejected under 35 U.S.C. §112, second paragraph. Claims 31 and 36 have been amended in a manner which is believed to better define Applicants' invention and to overcome the rejection. In particular, Claims 31 and 36 have been amended to add the language "at least two ultrasonic generators." Dependent Claims 35 and 37-38 depend from independent Claims 31 and 36, and therefore include the limitations of Claims 31 and 36. Accordingly, for at least the same reasons given for Claims 31 and 36, Claims 35 and 37-38 are believed to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, withdrawal of the rejection under 35 U.S.C. §112, second paragraph, with respect to Claims 31 and 35-38 is respectfully requested.

Further, in the Office Action, all the independent claims were rejected under 35 U.S.C. §§102(b) and 103(a) as being anticipated and unpatentable over prior art references. More specifically, Claims 24, 26-29 and 31-34, which include independent Claims 24 and 31, were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,817,021 issued to Reichenberger on October 6, 1998 ("Reichenberger"); Claims 30 and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Reichenberger in view of U.S. Patent No. 4,858,613 issued to Fry et al. on August 22, 1989 ("Fry et al."); Claims 24, 26-29, 31-34 and 36-38, which include independent Claims 24, 31 and 36, were rejected under 35 U.S.C. §103(a) as being unpatentable over

U.S. Patent No. 6,626,854 issued to Friedman et al. on September 30, 2003 (“Friedman et al.”) in view of U.S. Patent No. 5,526,814 issued to Cline et al. on June 18, 1996 (“Cline et al.”), further in view of Reichenberger or U.S. Patent No. 5,501,655 issued to Rolt et al. on March 26, 1996 (“Rolt et al.”); and Claims 30 and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Friedman et al. in view of Cline et al, further in view of Reichenberger or Rolt et al. as applied to Claims 24 and 31 above, and further in view of Fry et al.

The third and fourth rejections cited above are respectfully traversed for relying on the Friedman et al. reference as the primary reference. It is respectfully submitted that the earliest priority date for the Friedman et al. reference is December 27, 2000. The subject application has an earlier priority date than December 27, 2000. The subject application claims priority to PCT/GB00/02588 filed on July 5, 2000 which claims priority to a patent application filed in the United Kingdom on July 5, 1999 and assigned patent application number 9915707.5 (see the filing receipt of the subject application). Accordingly, withdrawal of the third and fourth rejections under 35 U.S.C. §103(a) which rely on Friedman et al. is respectfully requested.

By the present amendment, independent Claims 24 and 31 have been amended to better define Applicants’ invention and to overcome the first and second rejections cited above. Accordingly, it is believed that all pending claims, namely, Claims 24 and 26-35, which include independent Claims 24 and 31, recite subject matter which is patentably distinct over the disclosure of the cited prior art references.

In particular, Claim 24 has been amended to recite:

A non-invasive apparatus for treatment of subcutaneous tissue of a patient, said non-invasive apparatus comprising: means for generating ultrasonic vibrations; a substantially plano-concave lens disposed immediately adjacent the means for generating ultrasonic vibrations to focus the ultrasonic vibrations at a focal point within the tissue; a chamber configured to be positioned on the patient and to at least partially enclose the means for generating ultrasonic vibrations and the substantially plano-concave lens and being uniformly pressurized therein during treatment, wherein the means for generating ultrasonic vibrations includes a plurality of generator means for generating ultrasonic vibrations, wherein each of the plurality of generator means is substantially equally spaced from an adjacent one along a substantially semi-circular plane, and wherein a focal plane of at least one generator means is transverse to a portion of the chamber; and means for moving the focal point. (Emphasis added)

Claim 31 has been amended to recite:

A non-invasive apparatus for treatment of subcutaneous tissue of a patient, said non-invasive apparatus comprising: at least two ultrasonic generators configured to generate ultrasonic vibrations; at least one substantially plano-concave lens disposed immediately adjacent the at least two ultrasonic generators to focus the ultrasonic vibrations at a focal point within the tissue; a chamber configured to be positioned on the patient and to at least partially enclose the at least two ultrasonic generators and the at least one substantially plano-concave lens and being uniformly pressurized therein during treatment, wherein each of the at least two ultrasonic generators is substantially equally spaced from an adjacent one along a substantially semi-circular plane, and wherein a focal plane of the at least two ultrasonic generators is transverse to a portion of the chamber; and a mounting mechanism configured to mount the at least one substantially plano-concave lens and the at least two ultrasonic generators to be moveable together to move the focal point. (Emphasis added)

Reichenberger is directed to an invasive therapy apparatus for treating the heart and heart-proximate vessels. The apparatus is inserted within a patient's esophagus for providing the treatment. The apparatus includes two therapeutic ultrasound transducers and one diagnostic ultrasound transducer. Each of the transducers is housed within a sheath 40 which the Examiner states defines a chamber. The sheath is not configured for being positioned on the patient, but for inserting the therapy apparatus within the patient.

Hence, Reichenberger does not disclose or suggest the limitations recited by Applicants' independent Claims 24 and 31. In particular, Reichenberger does not disclose or suggest a non-invasive apparatus for treatment of subcutaneous tissue comprising at least "a chamber configured to be positioned on the patient and to at least partially enclose the means for generating ultrasonic vibrations and the substantially plano-concave lens and being uniformly pressurized therein during treatment, wherein the means for generating ultrasonic vibrations includes a plurality of generator means for generating ultrasonic vibrations, wherein each of the plurality of generator means is substantially equally spaced from an adjacent one along a substantially semi-circular plane, and wherein a focal plane of at least one generator means is transverse to a portion of the chamber," as recited by Applicants' Claim 24.

Further, Reichenberger does not disclose or suggest a non-invasive apparatus for treatment of subcutaneous tissue comprising at least "a chamber configured to be positioned on the patient and to at least partially enclose the at least one ultrasonic generator and the at least one substantially plano-concave lens and being uniformly pressurized therein during treatment, wherein each of the at least one ultrasonic generator is substantially equally spaced from an adjacent one along a substantially semi-circular plane, and wherein a focal plane of the at least one ultrasonic generator is transverse to a portion of the chamber," as recited by Applicants' Claim 31.

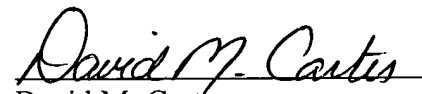
Dependent Claims 26-30 and 32-35 depend from either independent Claim 24 or 31, and therefore include the limitations of Claims 24 or 31. Accordingly, for at least the same reasons given for Claims 24 and 31, Claims 26-30 and 32-35 are believed to contain patentable subject matter.

In view of the above amendments and remarks, withdrawal of the rejections under 35 U.S.C. §§102(b), 103(a) and allowance of all the claims are respectfully requested.

It is respectfully submitted that all claims presently pending in the application, namely, Claims 24 and 26-38, are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the undersigned attorney at 631-501-5706.

Respectfully submitted,

A handwritten signature in cursive script, reading "David M. Carter", written over a horizontal line.

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